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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,343	08/09/2001	Gerd Jakob Ernst Scheller	853663.408	4400
38106 7590 08/19/2009 SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVENUE, SUITE 5400 SEATTLE, WA 98104-7092				
EXAMINER ELAHEE, MD S				
ART UNIT		PAPER NUMBER		
2614				
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08/19/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/925,343

**Applicant(s)**

SCHELLER ET AL.

**Examiner**

MD S. ELAHEE

**Art Unit**

2614

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-144a or PTO-144b)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to an amendment filed on 06/05/2009. Claims 1 and 3-13 are pending. Claim 2 has been previously cancelled. Claims 8-13 have been newly added.

### ***Response to Arguments***

2. Applicant's arguments filed on 06/05/2009 Remarks have been fully considered but are moot in view of the new ground(s) of rejection which is deemed appropriate to address all of the needs at this time.

### ***Objections to Specification***

3. The disclosure of the specification filed on 08/09/2001 is objected to because of the following informalities: the specification does not have the preferred layout. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT

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- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
7. Claims 1 and 5-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Nakamura** et al. (U.S. 6,529,714) and in view of **Donnelly** (U.S. 5,531,365).

Regarding claims 1 and 6, **Nakamura** teaches a radio communication equipment [i.e., portable electronic mobile phone apparatus] comprising:

- a housing having a wall and an opening to a battery compartment (fig.1);
- a battery pack positioned in the battery compartment (fig.1); and
- a battery compartment lid that is integrally arranged in the wall of the housing and is arranged to cover at least partly the battery pack and the battery compartment, said battery compartment being a lever element (abstract; fig.1, 2; col.2, lines 54-65).

However, **Nakamura** does not specifically teach battery compartment lid being a lever element that is arranged to bend a material of lower hardness, external to the portable electronic apparatus, by way of a leverage effect, wherein the material of lower hardness includes a bottle cap. **Donnelly** teaches battery compartment lid and the belt clip [i.e., lever element] attached to the lid is arranged to bend a material of lower hardness, external to the portable electronic apparatus, by way of a leverage effect, wherein the material of lower hardness includes a bottle cap (fig.1-10; col.5, lines 12-18, 44-67, col.6, lines 1-22, 58-67). Further, according to **In re Larson** 144 U.S.P.Q. 347, when parts are rigidly secured together as a single unit, they function as a unitary whole. Further it would be obvious to integrate the belt clip [i.e., lever element] into the battery compartment lid and so that users are not required to have a separate element to open/remove a bottle cap.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Nakamura** to incorporate the lever element being arranged to bend a material of lower hardness, external to the portable electronic apparatus, by way of a leverage effect, wherein the material of lower hardness includes a bottle cap in **Nakamura's** invention as taught by **Donnelly**. The motivation for the modification is to do so in order to provide a battery compartment lid integrating a bottle cap opener such that a user can enjoy the benefit of using the battery compartment lid for multipurpose use.

Claims 5, 9 and 12 are rejected for the same reasons as discussed above with respect to claim 1. Furthermore, **Nakamura** teaches that the lever element is constructed as an angled metal plate having an edge with an angle (fig.1; col.2, lines 54-65).

Claim 7 is rejected for the same reasons as discussed above with respect to claim 1. Furthermore, **Nakamura** teaches a synthetic material structure having a wall and an opening for exposing a battery pack of a mobile telephone (fig.1); and

a battery compartment lid which offers inherently protection against shocks and pressure (abstract; fig.1, 2; col.1, line 66, col.2, line 7, col.2, lines 54-65, col.3, lines 23-29, 48-54).

Claims 8 and 11 are rejected for the same reasons as discussed above with respect to claim 5.

Regarding claims 10 and 13, **Nakamura** teaches a connection unit for connecting the battery pack to a charging apparatus, wherein the battery compartment lid covers the connection unit (fig.1; col.1, line 66-col.2, line 7).

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Nakamura** et al. in view of **Donnelly** further in view of **Fuchs** et al. (U.S. 3,870,184).

Regarding claim 3, **Nakamura** teaches the lever element is arranged to inherently open battery storage recess [i.e., closures] and is connected to the housing (fig.1, 2; col.2, lines 54-65, col.4, lines 19-24, 32-39).

However, **Nakamura** in view of **Donnelly** fails to teach metal closures. Fuchs teaches metal closures (abstract; col.1, lines 60, 61). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Nakamura** in view of **Donnelly** to allow metal closures as taught by **Fuchs**. The motivation for the modification is to have doing so in order to increase the hoop strength.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Nakamura** et al. in view of **Donnelly** further in view of **Savovic** et al. (U.S. 5,260,146).

Regarding claim 4, **Nakamura** in view of **Donnelly** fails to teach that the lever element is made of metal and/or ceramic. **Savovic** teaches that the lid [i.e., lever element] is made of metal and/or ceramic (col.3, line 8). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Nakamura** in view of **Donnelly** to allow the lever element being made of metal and/or ceramic as taught by **Savovic**. The motivation for the modification is to have doing so in order to connect the anode to the positive terminal.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MD S. ELAHEE whose telephone number is (571)272-7536. The examiner can normally be reached on Mon to Fri from 9:00am to 5:30pm.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/MD S ELAHEE/  
MD SHAFIUL ALAM ELAHEE  
Primary Examiner  
Art Unit 2614  
August 18, 2009